

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

RUTH SMITH, individually and on
behalf of all others similarly
situated,

Plaintiff,

Case No.

1:22-cv-00081-LMB-

vs.

WEF

SUNPATH, LTD., a Massachusetts
corporation,

Defendant.

/

DEPOSITION OF
RULE 30(b)(6) DEPOSITION OF CHUKRAN MANAGEMENT GROUP
d/b/a AMERICAN PROTECTION CORP. ("AMERICAN PROTECTION")
KOBI CHUKRAN

(Conducted Via Videoconference)

DATE: November 1, 2022

TIME: 11:03 a.m. to 2:06 p.m.

PURSUANT TO: Notice by counsel for Plaintiff
for purposes of discovery, use at
trial or such other purposes as
are permitted under the Federal
Rules of Civil Procedure

REPORTED BY: Aaron T. Perkins, RMR, CRR, CRC
Notary Public, State of
Florida at Large

Pages 1 to 128

1 plan?

2 A. I'm sorry, repeat the question please.

3 Q. Once you determine which plan a customer
4 is best qualified for, then you back to the
5 customer and provide them with the plan that you
6 believe best suits their needs?

7 A. Yes.

8 Q. Okay. And then the customer can either
9 say, no, I don't want that plan, or, yes, I do?

10 A. Yes.

11 Q. Okay. What happens if the customer
12 says, All right, I want to purchase that plan?

13 MR. TANDY: Objection. I'm not sure I
14 understood your question, Taylor.

15 BY MR. SMITH:

16 Q. I'm just trying to understand how they
17 go about closing the sales process. What happens
18 after a customer says, All right, I will purchase
19 that vehicle service plan?

20 A. We receive information, and that
21 information is then submitted, in this case,
22 SunPath for fulfillment.

23 Q. And would SunPath always accept that
24 contract, or would they sometimes decline it?

25 MR. TANDY: Objection.

1 You can answer. I'm objecting to the
2 form of the question.

3 THE WITNESS: In some cases it would be
4 rejected.

5 BY MR. SMITH:

6 Q. Can you tell me an example of why
7 SunPath would reject a particular contract?

8 MR. TANDY: Objection, Taylor, to the
9 extent you're asking him to surmise why
10 another company rejected the a contract. Or
11 are you only asking if he's ever been told
12 specific reasons? Because the first way I'm
13 going to object that that's speculation. But
14 if it's the second reason, then I would ask
15 you to ask that specific question.

16 Does that make sense?

17 MR. SMITH: I understand what you're
18 saying.

19 BY MR. SMITH:

20 Q. Would you ever receive a rationale for
21 why SunPath would have rejected one of
22 American Protection's sales contracts?

23 A. Yes.

24 Q. What would those rationales be?

25 A. It could have been that the title of the

1 vehicle was rebuilt or rebranded.

2 Q. Any other reasons?

3 A. That's most of the -- that would be the
4 most.

5 Q. Okay. Let's say SunPath rejected one of
6 the contracts. Would American Protection go about
7 trying to fix the issue with SunPath and submit it
8 again?

9 A. No. If the vehicle does not qualify for
10 coverage, there's really nothing we can do.

11 Q. Okay. And if SunPath rejects the
12 contract, would American Protection ever say, All
13 right, well, then we have these other options with
14 one of the other companies that you work with?

15 A. No.

16 Q. Okay. You said you entered the payment
17 information and submit it to, in this case,
18 SunPath.

19 Where would you enter that payment
20 information?

21 A. Into our CRM system.

22 Q. The CRM.

23 And does SunPath have access to that CRM
24 system?

25 A. I'm not sure.

1 territorial scope?

2 A. It is limited to the states SunPath
3 operates in.

4 Q. And do you know those states?

5 A. Not offhand.

6 Q. Okay. Does SunPath put any pressure on
7 American Protection to make a certain number of
8 sales each month?

9 A. No.

10 Q. Does SunPath require American Protection
11 to maintain a do-not-call list?

12 A. No.

13 Q. Does SunPath have a do-not-call list
14 that American Protection is required to adhere to?

15 A. No.

16 Q. Does SunPath permit American Protection
17 to use its name in marketing materials?

18 A. I believe so, yes.

19 Q. Does SunPath restrict how
20 American Protection can market?

21 A. Everything would be highlighted in the
22 Seller Agreement.

23 Q. But nothing beyond a Seller Agreement?

24 A. Not to my knowledge.

25 Q. Okay. Can you tell me how SunPath would

1 compensate American Protection for the sale of one
2 of its vehicle service contracts?

3 MR. TANDY: I'm going to object to the
4 extent of relevance, but I will leave that --
5 I don't know that it's protected by the
6 contract.

7 MR. CAFFAS: I will also object to the
8 form in that it's leading, suggesting that
9 SunPath does pay American Protection at all,
10 which I don't believe that's in the
11 testimony, so I will object, again, to
12 leading, as I believe that's your testimony,
13 Mr. Smith.

14 BY MR. SMITH:

15 Q. You can answer, Kobi.

16 A. SunPath does not compensate us for the
17 sales. We are -- we pay SunPath a cost for the
18 policy, and we then collect the payments from the
19 customer.

20 Q. Okay. So American Protection, would
21 they set the price of the vehicle service
22 contracts?

23 A. Yes.

24 Q. Okay. And, then, a portion of that is
25 the cost of the contract. Is that fair to say?

1 A. Yes.

2 Q. And that's the portion that
3 American Protection has to provide to SunPath?

4 A. Yes.

5 Q. Okay. And then whatever amount above
6 that cost portion American Protection keeps
7 themselves?

8 A. Yes.

9 Q. Got it.

10 All right. Let me put up my next
11 exhibit. Give me a second.

12 (Exhibit No. 2 was marked for
13 identification.)

14 BY MR. TANDY:

15 Q. All right. I'm showing you what has
16 been marked as Exhibit 2.

17 Do you recognize this document?

18 A. Yes.

19 Q. Can you tell me what it is?

20 A. I believe this is the Call Center
21 Marketing Agreement.

22 Q. And that agreement is between SunPath
23 and American Protection; is that correct?

24 A. Yes.

25 Q. It looks like it was entered into on

1 other than what was previously produced?

2 A. No.

3 Q. Okay. Does American Protection ever
4 obtain a listing of numbers registered on the DNC
5 Registry?

6 A. Yes.

7 Q. How often does it obtain that list?

8 A. That is provided to us by any lead
9 providers in this case. So, in other words, if
10 we -- any kind of leads that we acquire are
11 cleansed and cleaned and suppressed against the
12 National Do Not Call List.

13 Q. Okay. After American Protection
14 receives those leads, does it take any steps to
15 ensure that it's not calling numbers that are in
16 those leads that are registered on the National Do
17 Not Call Registry?

18 A. We run those against our internal DNC
19 lists.

20 Q. Just your internal DNC list?

21 A. Yes.

22 Q. Not the National DNC List?

23 A. Not -- no. It's already done by the
24 lead providers.

25 Q. Okay. Does American Protection maintain

1 records of prior express consent from the
2 individuals that it places calls to?

3 A. No.

4 Q. How does American Express [sic] ensure
5 that the individuals that it's placing calls to
6 provided prior express consent?

7 MR. CAFFAS: I will object to this as
8 vague. I believe you just asked about
9 American Express. I assume you're not
10 talking about the credit card company.

11 MR. SMITH: Did I say American Express?

12 MR. CAFFAS: Yes.

13 MR. SMITH: Strike that.

14 BY MR. SMITH:

15 Q. How does American Protection ensure that
16 individuals that it's placing calls to have
17 provided prior express consent?

18 A. We review the method of which they
19 request information.

20 Q. So can you say that again?

21 A. We review the method of which they have
22 requested information.

23 Q. What do you mean by that?

24 A. I mean I review to make sure that the
25 proper opting language is present, that our name

1 strike that.

2 Do you know if it's been altered during
3 the relevant time period, since January 26th,
4 2018, to the present?

5 A. No, I don't believe so.

6 Q. And who would this be provided to?

7 A. To a subcontractor.

8 Q. Could you give me an example of --
9 sorry. Look to the first line. "It says, Hi,
10 blank. This is, blank, thank you for calling
11 American Protection Corp. How may I direct your
12 call?"

13 Would you provide any instructions to
14 the subcontractors as to how they're supposed to
15 use this?

16 A. No.

17 Q. You would just provide the document and
18 say, Adhere to this?

19 A. That is the essence of a subcontractor,
20 correct.

21 Q. Okay. Would you ever tell the
22 subcontractors that they're retired -- sorry, that
23 they're required to identify themselves by first
24 and last name?

25 A. I believe it's left to their choice of

1 how they would prefer to, whether it's the first
2 name or last name or both.

3 Q. Okay. And is this the script that all
4 of your subcontractors would use to sell any
5 vehicle service plan?

6 A. Yes.

7 Q. Okay. Did American Protection ever
8 provide training to the subcontractors as to how
9 they should conduct telemarketing?

10 A. No.

11 Q. Does it have a written agreement with
12 all of the subcontractors?

13 A. Yes.

14 Q. Would that be the affiliate agreement
15 that you produced? Is that an example of that?

16 A. Yes.

17 Q. Okay. We'll get to that in a minute and
18 move on to another exhibit.

19 (Exhibit No. 5 was marked for
20 identification.)

21 BY MR. SMITH:

22 Q. Kobi, I'm showing you what has been
23 marked as Exhibit 5.

24 Do you recognize this document?

25 A. Yes.

1 are you able to figure out the source of that
2 contact information, where it came from?

3 A. In some cases I could, and in some cases
4 I can't.

5 Q. Okay. What about in the plaintiff's
6 situation?

7 A. What about it?

8 Q. You previously said that
9 American Protection sent a mailing to her; is that
10 correct?

11 A. Yes.

12 Q. Do you know where it got her contact
13 information prior to sending that mailing?

14 A. I do not, no.

15 Q. Did you search for that information?

16 A. Yes.

17 Q. What repositories were searched?

18 A. Our CRM.

19 Q. CRM.

20 Does SunPath ever provide leads to
21 American Protection?

22 A. No.

23 Q. All right. I will pull up my next
24 exhibit.

25 (Exhibit No. 7 was marked for

1 record?

2 THE COURT REPORTER: Back on the record, sir.

3 Thank you.

4 MR. SMITH: All right.

5 BY MR. SMITH:

6 Q. I'm going to re-ask that question, Kobi.

7 Does American Protection have any records of
8 the actual inbound or outbound calls to Plaintiff?

9 A. No.

10 Q. Okay. Does American Protection have any other
11 documents in its possession related to Plaintiff that
12 have not been produced?

13 A. No.

14 Q. Does American Protection have any record of
15 Plaintiff providing any prior express written consent?

16 A. I'm sorry. What -- what was the question
17 again?

18 Q. Yeah. Does American Protection have any record
19 of Plaintiff providing any prior express written
20 consent?

21 MR. CAFFAS: I'm going to object to the
22 vagueness of that question. Prior express written
23 consent, to what?

24 MR. TANDY: I will join.

25 BY MR. SMITH:

1 Q. You can answer.

2 A. No.

3 Q. Does American Protection have any policies or
4 procedures to ensure compliance with the Virginia
5 Telephone Privacy (sic) Act?

6 A. Everything has been provided to you.

7 Q. Okay. Other than the documents that have been
8 provided, does American Protection have any policies or
9 procedures to ensure compliance with the Virginia
10 Telephone Privacy Act?

11 A. No.

12 Q. Okay. And does American Protection have any
13 specific policies or procedures that relate to
14 compliance with the Virginia Telephone Privacy Act?

15 A. No.

16 Q. Prior to this lawsuit, did you have -- were you
17 aware of the Virginia Telephone Privacy Act?

18 A. No.

19 Q. Okay. I want to go through calls to Plaintiff
20 briefly and ask you questions about them.

21 So Plaintiff alleges, on May 26th, 2020, that
22 she received two calls, and the caller ID was a
23 410-844-6327.

24 Do you know if American Protection has ever
25 utilized that number to place calls?

1 (Deposition Exhibit 16 was marked.)

2 BY MR. SMITH:

3 Q. All right, Kobi. I'm showing you what's been
4 marked as Exhibit 16.

5 Do you recognize this document?

6 A. (Witness perused document.) Yes.

7 Q. Okay. And I'll represent this is a document
8 that was produced by Plaintiff in this litigation, and
9 it's been marked as SMITH000025 through 26.

10 Can you tell me what it is?

11 A. It seems to be an e-mail quote re- -- that was
12 requested by the plaintiff.

13 Q. This e-mail was sent on May 28th, 2020, at
14 6:03 p.m.; is that correct?

15 A. I don't know. I -- I don't know if that's
16 correct or not.

17 Q. Okay. That's what the exhibit states, though,
18 right?

19 A. That's what it -- yes.

20 Q. Okay. It was sent to Ruth Smith, and it's --
21 I guess, it was sent by Samantha Jaeger; is
22 that correct?

23 MR. TANDY: Objection.

24 MR. CAFFAS: Yeah. Objection. It calls for
25 speculation.

1 THE WITNESS: It looks like the e-mail address
2 is of Samantha Jaeger.

3 BY MR. SMITH:

4 Q. Okay. This e-mail also begins -- or --
5 sorry -- strike that.

6 This e-mail begins with, "Thank you for taking
7 the time to discuss your vehicle protection needs."

8 Do you see that?

9 A. Yes.

10 Q. Fair to say this e-mail would have followed a
11 phone call?

12 A. Yes.

13 Q. Okay. Do you know why this document wasn't
14 also produced by American Protection?

15 A. No, I do not. I believe -- I'm not sure if
16 this is an attachment or what exactly is the format this
17 came in.

18 Q. Okay. But you don't know why it was -- wasn't
19 produced?

20 A. No, I do not.

21 MR. TANDY: Objection.

22 (Deposition Exhibit 17 was marked.)

23 BY MR. SMITH:

24 Q. Okay. I'm showing you what's been marked as
25 Exhibit 17.

1 Do you recognize this document?

2 A. (Witness perused document.) Yes, I do.

3 Q. Can you tell me what it is?

4 A. Well, I think this is the link that is
5 generated by Inline when a customer presses the
6 "Buy Now" button on their e-mail.

7 Q. Okay. All right. That's all the questions I
8 had about this one.

9 (Deposition Exhibit 18 was marked.)

10 BY MR. SMITH:

11 Q. Kobi, I'm showing you what's been marked as
12 Exhibit 18.

13 Do you recognize this document?

14 A. Yes.

15 Q. Can you tell me what it is?

16 A. This is a confirmation of an e-mail from
17 Paul Sporn of SunPath, confirming appointment of our
18 company, in terms of the Florida licensing requirement.

19 Q. Okay. And it's dated September 20th, 2021; is
20 that correct?

21 A. Yes.

22 Q. And this is, it looks like, a reappointment; is
23 that correct?

24 A. That's what it says, yes.

25 Q. Okay. Is this a confirmation that SunPath

1 American Protection has never spoofed any telephone
2 number associated with First Citizens Bank, to your
3 knowledge?

4 A. Yes.

5 Q. Does -- strike that.

6 Does American Protection subscribe to the
7 reg- -- the Federal Do Not Call Registry?

8 A. Not at this time, no.

9 Q. Why? Why not?

10 A. Our subscription expired.

11 Q. And does AP --

12 Or at what time did it subscribe to the Do Not
13 Call Registry?

14 A. I don't have the exact dates.

15 Q. Would it be --

16 Would it have been within the past year that
17 your subscription expired?

18 A. No.

19 Q. Can you give me a ballpark of when the
20 subscription would have expired?

21 A. I believe a couple of years.

22 Q. Okay. And in that time, did AP intentionally
23 make calls to consumers --

24 A. No.

25 Q. -- on the Do Not Call Registry?